THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION NO :20259 of 1998

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Dated: 26.09.2005

Between:

1. Government of Andhra Pradesh,

represented by its Principal Secretary,

Education Department, Secretariat and another.

.. **Petitioners**

And

1. The Andhra Pradesh Administrarive

Tribunal, Purana Haveli, Hyderabad

Represented by its Registrar.

2. C. Krishnachar, Deputy Educational

Officer, R/o H.No.2/146/A, 2nd

Floor, New Town, Anantapur .. **Respondents**

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO :20259 of 1998

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking a direction, in the nature of writ of certiorari, to set aside the Order dated 05.03.1998 in O.A.No.988 of 1998 on the file of the A.P Administrative Tribunal, Hyderabad.

The petitioners herein are the respondents and the 2nd respondent herein is the applicant in the O.A. The status of the parties will be referred to herein as arrayed in the O.A.

The brief facts in the O.A. are that the applicant was directly recruited to the combined cadre of School Assistants and Deputy Inspector Grade-II Scale selected by Composite Madras Public Service Commission and appointed as School Assistant Grade-IV on 1.9.1953. By virtue of the orders passed by the Government revising superannuation from 58 years to 55 years, the applicant prematurely retired and subsequently, in pursuance of the orders of the Supreme Court, he was allowed to continue in service up to attaining age of 58 years and he was ultimately permitted to retire from service by 31.3.1987. As such, he completed 22 years of service in the Head Master's Scale of Grade-I, by 31.5.1986 and therefore, he is entitled to get his pay fixed in the Special Promotion Scale of 22 years. In spite of the representation made by the applicant, the respondents have not passed any orders. Hence, the applicant filed the above O.A.

The tribunal disposed of the said O.A. at the admission stage having observed that the respondents permitted the applicant to continue in service till he attained the age of 58 years and his 22 years Special Promotion Scale is due by 31.5.1986 itself, and directed the respondents to grant Special Promotion Scale-II after completion of 22 years of service in accordance with G.O.Ms.No.347 Finance and Planning Department, dated 17.11.1989, within a period of six weeks from the date of receipt of the order. Aggrieved by the same, the department filed the present writ petition.

The learned Government Pleader for School Education submitted that the said O.A. was disposed of at the admission stage itself and no opportunity was given to the respondents-department for filing counter and to contest the claim of the applicant.

On the other hand, the learned Counsel for the applicant reiterated the contentions that were put forth before the Tribunal and contended that the order of the Tribunal needs no interference.

Perused the material available on record.

Admittedly, the present O.A. was disposed of at the admission stage itself.

The present matter relates to special promotion scale. In this nature of cases, the matter has to be decided on its own merits by affording an opportunity to the department to put forth its case as to the entitlement of the applicant to such scale. But in the instant case, no opportunity was given to the department and hence, the respondents-department deprived the right of filing the counter and to contest the claim of the applicant.

In this view of the matter, we deem it appropriate to set aside the order impugned and remand the matter to the Tribunal for fresh consideration. However, the respondents-department are directed to file a counter within a period of three weeks from today and on filing such counter, the Tribunal is directed to dispose of the O.A. on merits, within a period of three months thereafter.

Accordingly, the writ petition is allowed. No order as to costs.

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Justice T. Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 26.09.2005

Nn.